

EXHIBIT 3

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

The Woodlands Pride, Inc.; Abilene Pride
Alliance; Extragrams, LLC; 360 Queen
Entertainment LLC; Brigitte Bandit,

Plaintiffs,

v.

Angela Colmenero, in an official capacity as
Interim Attorney General of Texas; The
Woodlands Township; Montgomery County,
Texas; Brett Ligon, in an official capacity as
District Attorney of Montgomery County;
City of Abilene, Texas; Taylor County,
Texas; James Hicks, in an official capacity as
District Attorney of Taylor County; Delia
Garza, in an official capacity as County
Attorney of Travis County; Joe D. Gonzalez,
in an official capacity as District Attorney of
Bexar County,

Defendants.

Civil Action No. 4:23-cv-02847

DECLARATION OF GAVYN HARDEGREE

Pursuant to 28 U.S.C. § 1746, Gavyn Hardegree declares:

1. My name is Gavyn Hardegree.¹ I am over twenty-one (21) years of age and am fully competent to testify about the matters contained herein. The following statements are made within my personal knowledge and are true and correct.

2. I am the President of Abilene Pride Alliance. I have held this position since October 2022 and first joined the group as a board member in 2021.

3. Abilene Pride Alliance is a non-profit organization focused on supporting Abilene's LGBTQIA+ community. It was founded in 2019 and received its non-profit status in 2021. Its mission is to develop an environment of diversity, equity, and inclusion for the LGBTQIA+ community through advocacy, programs, and education in Abilene. Its vision is a supportive and inclusive environment where the community embraces and celebrates each person's authentic identity and provides a sense of security and belonging.

4. The Abilene Pride Alliance hosts social support groups and free events in Abilene, with the goal of fostering a strong community. For example, the Abilene Pride Alliance currently hosts monthly social support meetings for transgender and nonbinary people, holds free game nights multiple times a month, and sponsors a free support group facilitated by a therapist.

5. In September 2022, the Abilene Pride Alliance held Abilene's first full-scale Pride event, which included a parade and a festival at Grover Nelson Park with over 1,800 attendees. The parade, through the streets of downtown Abilene, featured a drag queen float and the festival included an all-ages drag show.

6. The Abilene Pride Alliance has also hosted other events that feature drag performances. In June and July of 2022, we hosted two drag brunch fundraisers at a local coffee shop in Abilene that gave us the exclusive use of the space. During that same time span, we also

¹ My legal name is Gabrielle Hardegree, but I go by Gavyn Hardegree in every other aspect of my life.

hosted two drag bingo events at the Abilene Community Theatre, which also donated the use of the theater to us. These events were open to all ages, and many children attended.

7. Unfortunately, many of these events have been targeted by anti-drag and anti-LGBTQIA+ protestors. After our coffee shop drag brunches, the coffee shop was targeted by anti-drag activists. They sent harassing and threatening phone calls and emails and even entered the shop to scream at its employees. After this incident, we felt the need to cancel our future planned drag brunches, and our drag bingo events at the nearby theater, for the safety of our performers, event patrons, and venue staff. Our 2022 Pride event was also a target of protestors who held signs with anti-LGBTQIA+ messages during the parade and yelled at attendees entering the festival. After these and other instances of threats and harassment against Abilene Pride Alliance events and members of Abilene's LGBTQIA+ community, Abilene Pride Alliance created a new board position, filled by an existing board member, for the purpose of monitoring the online activities of opposition groups, so that Abilene Pride Alliance can stay as informed as possible about threats against us.

8. Drag is an artform in which performers of any gender dress in ways that exaggerate traditional male or female characteristics. While anyone can participate in drag, it has been historically used as means of self-expression and celebration in the LGBTQIA+ community and as way to challenge cultural stereotypes of gender. Our past drag performances have featured a variety of performers (both drag queen and kings), content, and artistic styles. Many of our drag performers dance or lip-sync to popular rock, pop, hip-hop, musical theater, and country music while dancing with, hugging, or accepting tips from audience members. Some of our performers impersonate pop stars or cartoon characters. Others play instruments and sing live. Others serve as emcees to keep the audience engaged, call bingo numbers, or introduce the next

performer. The following photos are from our previous community drag performances, which I would be able to testify to.



9. Abilene Pride Alliance does not know how to comply with SB 12. Its standards for prohibited performances are confusing and vague. I have discussed this issue with my board, and we do not know how we could determine whether the drag shows and performers so often featured in our events comply with SB 12. For instance, we do not know how to assess whether a performance would appeal to “the prurient interest in sex,” since that term is open to interpretation and undefined by SB 12. While I do not believe that any of our drag shows should be categorized in that way, I am aware of the sentiment among the lawmakers that passed the Drag Ban that drag shows are inherently sexual and explicit.

10. Moreover, our drag performers at past events have used accessories and prosthetics that “that exaggerate male or female sexual characteristics” like wigs, makeup, dresses, prosthetic facial hair, false eyelashes, body and bra padding, and jewelry. They also sometimes thrust and shake their hips or do the splits during dance routines, which I fear could be interpreted by public officials as “sexual gesticulations” or “representation[s] [of] . . . simulated . . . sexual acts” under the Drag Ban’s vague provisions.

11. On some occasions, our drag performers give front-facing hugs and hip-bumps to audience members or even sit in their laps. I fear that this could be found by public officials to be a type of “actual . . . or simulated contact occurring between one person and the buttocks, breast, or any part of the genitals of another person.”

12. We also occasionally employ “drag kings” who use devices called “packers,” which are worn under pants to give the appearance of a masculine “bulge”—essentially simulating or exaggerating the presence of a penis. I worry that some people would accuse these drag kings of the “exhibition or representation, actual or simulated, of male or female genitals in a lewd state.” While I disagree that this type of prosthetic is “lewd,” others, including public officials, may feel differently, as the Drag Ban does not define the term.

13. Further, some of the vendors at our 2022 Pride event distributed free condoms and sexual lubricant to attendees, which I worry could lead us to be accused of “the exhibition of a device designed and marketed as useful primarily for the sexual stimulation of male or female genitals.”

14. Some regular attendees at our 2022 Pride event also danced with each other near the performance stage. I fear that because the words “performer” and “performance” are not defined by SB 12—and because it explicitly notes that “performers” need not be compensated to

be found in violation of the law—regular festival attendees who may just be dancing near the stage area could also be accused of giving a “sexually oriented performance.”

15. Finally, I worry that SB 12’s broad definition of “nude” could also subject someone at our Pride event to civil or criminal sanctions. Even though no performer at our events is “nude” under my view of that term, the fact that “performer” is not defined and that “nude” is defined so broadly in this law, the law could trigger harsh penalties for anyone who shows even a part of their breast or buttocks or has even a momentary wardrobe malfunction. This type of mishap could then result in the Abilene Pride Alliance being punished due to SB 12.

16. The Abilene Pride Alliance is currently planning our annual Pride event on September 30, 2023. It will include a parade through Abilene’s public downtown streets and a festival at the Expo Center of Taylor County, which is operated by a non-profit organization who rents the facility from Taylor County. The City of Abilene has issued us a permit for the parade. We plan to include drag performers in the parade and the festival.

17. If the Drag Ban is not enjoined, I am worried that Abilene Pride Alliance’s drag performers and festival attendees could be subject to criminal liability under SB 12. I am also worried that Abilene Pride Alliance, its board members, and myself could be exposed to criminal penalties for organizing and employing drag performers for our events, thereby “aiding and abetting” a prohibited performance.

18. I also worry that when Abilene Pride Alliance rents or reserves private spaces for drag events and fundraisers, it would become an entity “who controls the premises of a commercial enterprise,” and therefore liable for a \$10,000 civil penalty or other Texas Attorney General enforcement action for a violation of SB 12.

19. Under SB 12, I also fear that our permit for the use of Abilene's city streets for the upcoming parade may be revoked by the City of Abilene because of our plans to include drag performers. I fear that Abilene City Council is already scrutinizing local drag shows, as an item called "Drag Show Performances" appeared on the executive session agenda at its July 27, 2023, meeting. Because this was a closed executive session, I am not aware of the content or outcome of the discussion.

20. Finally, because SB 12 also gives Taylor County the power to restrict and regulate any "sexually oriented performance," I am worried that the County will stop or limit our planned drag performances, especially because our upcoming festival is going to take place on County property.

21. If SB 12 is not enjoined, its enforcement and chilling effect will force the Abilene Pride Alliance to cease or limit our planned drag performances. This will cause our organization irreparable harm. We consider drag to be the glue that holds the Abilene Pride Alliance, and Abilene's greater LGBTQIA+ community, together. It is through drag artistry that my organization works to achieve its vision of an inclusive community that embraces and celebrates each person's authentic identity. Censoring our drag performances would amount to an abandonment of the fundamental mission and viewpoint of our organization and it would limit our organization's fundraising potential.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this the ⁸____ day of August, 2023.



Gavyn Hardegree